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ELECTRONIC FRONTIER FOUNDATION

**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

ELECTRONIC FRONTIER FOUNDATION,	)	NO. 07-CV-05278-SI
	)	
Plaintiff,	)	<b>DECLARATION OF DAVID L. SOBEL</b>
	)	<b>IN SUPPORT OF MOTION FOR AWARD</b>
v.	)	<b>OF ATTORNEYS FEES AND COSTS</b>

OFFICE OF THE DIRECTOR OF NATIONAL	)	
INTELLIGENCE,	)	
	)	Date: May 16, 2008
	)	Time: 9:00 a.m.
Defendant.	)	Courtroom: 10, 19th Floor
	)	
	)	
	)	

1. I am an attorney for the plaintiff in this matter and a member in good standing of the District of Columbia Bar, and am admitted to practice before this Court in this action *pro hac vice*. I have personal knowledge of the matters stated in this declaration. If called upon to do so, I am competent to testify to all matters set forth herein.

1           2.       I am Senior Counsel at Plaintiff Electronic Frontier Foundation (“EFF”), which is a  
2 nonprofit corporation established under the laws of California with its principal place of business in  
3 San Francisco. I am based at EFF’s office in Washington, DC.

4           3.       EFF generally represents clients without charge in precedent-setting litigation of  
5 national importance involving novel and complex issues arising from the intersection of new  
6 technology with privacy rights, free press and free expression rights, and other civil liberties.  
7 Nevertheless, EFF attorneys have hourly rates for purposes of cases in which EFF is entitled to  
8 attorney’s fees.

9           4.       For 2007, my rate was \$600 per hour. For 2008, my rate is \$700 per hour.

10          5.       My rates are well within the prevailing hourly rates in the San Francisco Bay Area  
11 for lawyers of comparable education, expertise, and experience who handle matters of the type  
12 involved in this litigation.

13          6.       In 1979, I received my Juris Doctor degree from the University of Florida College of  
14 Law. Since graduation I have continuously practiced civil law, specializing in Freedom of  
15 Information Act (“FOIA”) litigation. I became Senior Counsel at EFF in August 2006.

16          7.       Before holding this position, I was General Counsel at the Electronic Privacy  
17 Information Center (“EPIC”), where I directed EPIC’s FOIA litigation.

18          8.       Prior to this case, I litigated numerous FOIA cases, including many cases involving  
19 the expedited processing of FOIA requests. These cases include *Washington Post v. Dep’t of*  
20 *Homeland Sec.*, 459 F. Supp. 2d 61 (D.D.C. 2006); *Elec. Privacy Info. Ctr. v. Dep’t of Justice*, 416  
21 F. Supp. 2d 30 (D.D.C. 2006); *Elec. Privacy Info. Ctr. v. Dep’t of Justice*, 2005 U.S. Dist. LEXIS  
22 40318 (D.D.C. 2005); and *ACLU v. Dep’t of Justice*, 321 F. Supp. 2d 24 (D.D.C. 2004).

23          9.       I was the co-editor of the 2002 and 2004 editions of *Litigation Under the Federal*  
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1 *Open Government Laws*, a leading treatise on FOIA litigation. I was the recipient of the American  
 2 Library Association's James Madison Award in 2004 in recognition of my contribution to FOIA  
 3 litigation and open government efforts, and was inducted into the First Amendment Center's  
 4 National FOIA Hall of Fame in 2006.

6 10. After a careful review of our files on the case, I have determined that I spent the  
 7 following hours on the complaint, motion for preliminary injunction, and this motion:

<u>Date</u>	<u>Task</u>	<u>Hours</u>
10/6/07	Confer w/ co-counsel; review complaint	2.5
10/26/07	Confer w/ co-counsel; review motion for preliminary injunction	4.0
10/12/07	Review gov. opposition to motion for PI	2.0
11/13/07	Research & draft reply in support of PI motion; confer w/ co-counsel	6.0
11/15/07	Research & draft reply in support of PI motion; confer w/ co-counsel	4.0
11/16/07	Research & draft reply in support of PI motion; prepare for filing	2.5
11/27/07	Review court order granting in part PI	0.5
=====		===
Total 2007 hours:		21.5
4/10/08	Draft declaration in support of fee motion	0.5
4/10/08	Confer w/ co-counsel; review motion for attorneys fees	2.0
=====		===
Total 2008 hours:		2.5

11. In total, I spent no fewer than 24 hours on this litigation, with 21.5 hours spent in 2007  
 when my hourly rate was \$600 per hour (\$12,900.00) and 2.5 hours spent in 2008 when my hourly  
 rate was \$700 per hour (\$1,750). At my hourly rates during the relevant timeframe, my total fees

1 are \$14,650.00.

2  
3 I declare under penalty of perjury of the laws of the State of California that the foregoing is true  
4 and correct to the best of my knowledge and belief. Executed April 11, 2007 in Washington, DC.  
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6 /s/ David L. Sobel  
7 David L. Sobel  
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